

Message Text

PAGE 01 STATE 164814

62

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FM SECSTATE WASHDC

TO AMEMBASSY LISBON IMMEDIATE

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E.O. 11652: N/A

TAGS: EGEN, PO

SUBJECT: TORRINGTON INDUSTRIES

REF: LISBON 3884; KELLY/PASTORINO TELCON OF JULY 11

1. ASSISTANT SECRETARY HARTMAN HAS CALLED IN AMBASSADOR THEMIDO TO MAKE STRONG DEMARCHE ON TORRIHGTON CASE. APPOINTMENT SET FOR MONDAY, JULY 14 AT 12 NOON. AIDE MEMOIRE WILL BE HANDED TO THEMIDO AS WELL.

2. TEXT OF DEPT'S AIDE MEMOIRE FOLLOWS IN PARA THREE. PLEASE NOTE PARTICULARLY THE DELETION OR ALTERATION OF FOLLOWING POINTS IN EMBASSY'S PROPOSED NOTE WHICH WE BELIEVE EMBASSY SHOULD ALSO ALTER IN ORDER TO BE ON SOLID GROUND. (REFS HEREIN KEYED TO NUMBERING USED IN PARA THREE OF REFTEL).

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PAGE 02 STATE 164814

-- PARA A: DATE IS APRIL 5.

-- PARA C: SENTENCE 2 DELETED.

-- PARA D: SENTENCE 3, NOTE DEPT'S ADDITIONAL SENTENCE HERE REGARDING THE RIGHT TO PROTECTION AND NON-DISCRIMINATORY

APPLICATION OF SUCH LAWS. IN PRESENT CIRCUMSTANCES, PORTUGAL MAY BE IN VIOLATION OF THESE REQUIREMENTS IN CONNECTION WITH THE LOSS OF CONTROL, AND NOT GOVERNMENTALLY

INVOLVED IN AN EXPROPRIATION OF THE PLANT.

-- PARA D: SENTENCE 4, NOTE THAT WE HAVE DELETED THE CONCLUSION OF EMBASSY'S SENTENCE AND SUBSTITUTED LANGUAGE FOUND IN AIDE MEMOIRE, POINT IV BELOW. DEPT NOT PREPARED TO GET COMMITTED TO A LEGAL THEORY WITH EXTENSIVE CONSEQUENCES IN US LAW WITHOUT FURTHER STUDY.

3. TEXT OF AIDE MEMOIRE FOLLOWS:

BEGIN TEXT: "I) THE DEPARTMENT OF STATE WOULD LIKE TO CALL THE ATTENTION OF THE EMBASSY OF PORTUGAL TO THE CASE OF TORRINGTON PORTUGUESA. THE FACTORY OF TORRINGTON PORTUGUESA SARL HAS BEEN ILLEGALLY OCCUPIED SINCE APRIL 5, 1975, WHEN THE CORPORATION'S MANAGERIAL PERSONNEL WERE PREVENTED FROM ENTERING THE PLANT.

II) TORRINGTON PORTUGUESA HAS EMPLOYED APPROXIMATELY 400 PORTUGUESE CITIZENS; IT HAS EXPORTED THE GREATER PART OF ITS PRODUCTION, EARNING SOME FOUR MILLION DOLLARS ANNUALLY IN FOREIGN EXCHANGE FOR PORTUGAL; IT HAS REINVESTED THE GREATER PART OF ITS EARNINGS IN PORTUGAL; AND IT HAS TRAINED PORTUGUESE PERSONNEL TO ASSUME IMPORTANT SUPERVISORY RESPONSIBILITIES.

III) THE GOVERNMENT OF THE UNITED STATES IS CONCERNED BY THE CONTINUED FAILURE TO RESOLVE THE STOPPAGE OF TORRINGTON OPERATIONS. THE COMPANY HAS DILIGENTLY SOUGHT TO COMPLY WITH ALL PORTUGUESE REQUIREMENTS, AND HAS NEGOTIATED IN GOOD FAITH WITH THE PORTUGUESE GOVERNMENT DURING THE LONG PERIOD SINCE THE SEIZURE OF THE PLANT. HOWEVER, A COMPANY CANNOT BE EXPECTED TO SURRENDER THE MANAGERIAL SUPERVISION OF ITS OPERATIONS. FURTHER, THE COMPANY IS ENTITLED TO ADEQUATE PROTECTION OF ITS OPERATION AND TO FAIR AND NON-DISCRIMINATORY APPLICATION OF PORTUGUESE LAWS
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PAGE 03 STATE 164814

TO THIS EFFECT.

IV) THE PORTUGUESE GOVERNMENT'S UNILATERAL AUTHORIZATION FOR THE WITHDRAWAL OF FUNDS FROM TORRINGTON'S FROZEN BANK ACCOUNT RAISES SERIOUS QUESTIONS ABOUT THE CONTINUED OBSERVANCE OF PORTUGUESE AND INTERNATIONAL LAW AND GOVERNMENT POLICY TOWARD PRIVATE FOREIGN INVESTMENT AND PROPERTY.

V) THE GOVERNMENT OF PORTUGAL HAS STATED THAT FOREIGN PRIVATE INVESTMENT CONTINUES TO HAVE A ROLE IN THE NATION'S ECONOMIC DEVELOPMENT PROGRAM, BUT THE GOVERNMENT SHOULD BE AWARE THAT THE TREATMENT ACCORDED TO TORRINGTON WILL HAVE

SIGNIFICANT IMPLICATIONS FOR THE FUTURE OF FOREIGN PRIVATE INVESTMENT.

VI) WHILE THE DECISIONS OF FOREIGN MANUFACTURING AND FINANCIAL CORPORATIONS ARE COMPLETELY INDEPENDENT, THEY CANNOT BUT NOTE THE MANNER IN WHICH TORRINGTON'S PROBLEMS ARE TREATED. FAILURE TO RESOLVE PROMPTLY THE PROBLEMS PREVENTING TORRINGTON FROM RESUMING OPERATIONS WOULD UNDOUBTEDLY DISCOURAGE OTHER POTENTIAL INVESTORS FROM INCREASING THEIR CAPITAL EXPOSURE IN PORTUGAL.

VII) CONCERNED BY THE POTENTIAL ECONOMIC IMPORT OF THIS UNFORTUNATE SITUATION, THE UNITED STATES URGENTLY REQUESTS THAT THIS ISSUE BE CONSIDERED IMMEDIATELY AT THE HIGHEST LEVELS OF THE PORTUGUESE GOVERNMENT IN ORDER THAT A PROMPT, EQUITABLE SOLUTION MAY BE FOUND. END TEXT.

4. ALSO NOTE WORDING CHANGES IN PARA VII ABOVE.

5. WE HAVE ALSO INCLUDED FOLLOWING TALKING POINT ON FOREIGN ASSISTANCE ACT, BUT EXCLUDED THIS POINT FROM AIDE MEMOIRE. BEGIN QUOTE: AS YOU KNOW WHERE AN EXPROPRIATION TAKES PLACE WITHOUT REASONABLE STEPS TO FULFILL REQUIREMENTS OF INTERNATIONAL LAW, PROVISIONS OF THE UNITED STATES FOREIGN ASSISTANCE ACT COULD COME INTO PLAY. END QUOTE. ROBINSON

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